



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

GILMANTON TOWN EMPLOYEES' UNIT	:	
and	:	
WILLIAM HACKETT	:	
Petitioners	:	CASE NO. M-0629:1
v.	:	
TOWN OF GILMANTON, N.H.	:	DECISION NO. 91-40
Respondents	:	

APPEARANCES

Representing the Gilmanton Town Employees and William Hackett:

Vincent A. Baiocchetti, President

Representing the Town of Gilmanton:

Walter L. Mitchell, Esq., Counsel

Also in attendance:

William Hackett, Complainant, GTEA
Bruce A. Marriott, Selectman
Elizabeth R. Smithers, Town Clerk
H. L. Osler, Selectman

BACKGROUND

The Gilmanton Town Employees' Unit (Unit) filed unfair labor charges against the Town of Gilmanton (Town) for allegedly reducing the hours of operations at the town dump and by so doing, reducing the hours worked by Attendant William Hackett making him a part-time employee and ineligible for medical benefits. The representative for the Unit alleged that Mr. Hackett, a moving force in the organization and certification of the Unit was being singled out because of his participation in the organizing effort. He added that the Town pays medical benefits for the Town Clerk who is also a part-time employee and requested reinstatement of all benefits to Mr. Hackett.

The Town responded that the hours of operations at the disposal facility was reduced for more efficient management and required the employment of two employees at all times. In addition, the only so-called "part-time" employee receiving medical benefits was an elected official whose office was only opened 20 hours

per week, however the total hours worked was well in excess of 30 hours.

FINDINGS OF FACT

1. The Gilmanton Town Employees' Association was certified under RSA 273-A on October 30, 1990.
2. Certification of a unit under 273-A mandates that the Public Employer, Town of Gilmanton, negotiate with the Gilmanton town Employees Association and enter into a written agreement with regard to terms and conditions of employment and negotiate collectively with the Association in the determination and administration of grievances.
3. RSA 273-A:4 also mandates that any agreement reached between the parties be reduced to writing and contain a "workable" grievance procedure.
4. The Town and Association have not reached agreement to date.
5. The Town's Personnel Policy relative to medical coverage states:

"The Town of Gilmanton provides Health Insurance to all full-time employees of the Town who elect to participate. Coverage begins on the first day of the month following appointment.

The Town of Gilmanton pays the full premium for the employee and his family."

6. At the time of the election, Mr. Hackett was employed full-time and was receiving medical benefits.
7. Subsequent to the election, the Town reduced Mr. Hackett's hours.
8. RSA 273-A, XI states:

"'Managerial policy within the exclusive prerogative of the public employer' shall be construed to include but shall not be limited to the functions, programs and methods of the public employer, including the use of technology, the public employer's organizational structure, and number of its personnel, so as to continue public control of governmental functions."

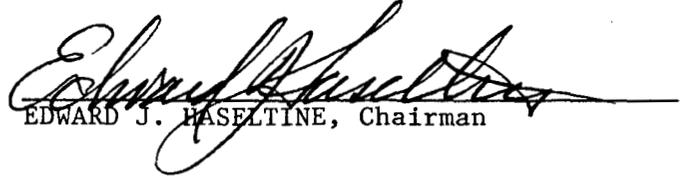
9. The Town was within its right to reduce the hours of operations at the disposal facility to ensure more efficient management.
10. PELRB has no jurisdiction over elected officials.

DECISION AND ORDER

- A. In the absence of a collective bargaining agreement between the parties, the Town's Personnel Policy governs.
- B. The change in Mr. Hackett's status renders him ineligible for medical benefits.
- C. The unfair labor practice charge filed by the Gilmanton Town Employees' Association

on behalf of Mr. Hackett is hereby DISMISSED.

Signed this 25th of June, 1991.


EDWARD J. HASELTINE, Chairman

By unanimous vote. Chairman Edward J. Haseltine presiding. Members E. Vincent Hall and Richard W. Roulx present and voting.